



PENNIE &amp; EDMONDS LLP DOCKET NO. 10165-006-999

# DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below at 201 et seq. underneath my name.

I believe I am the original, first and sole inventor if only one name is listed at 201 below, or an original, first and joint inventor if plural names are listed at 201 et seq. below, of the subject matter which is claimed and for which a patent is sought on the invention entitled

**MODULATION OF EXCITABLE TISSUE FUNCTION BY PERIPHERALLY ADMINISTERED ERYTHROPOIETIN**

and for which a patent application:

- ☐ is attached hereto and includes amendment(s) filed on (if applicable)  
☒ was filed in the United States on April 11, 2000 as Application No. 09/547,220 (for Declaration not accompanying application)  
 with amendment(s) filed on (if applicable)  
☐ was filed as PCT International Application No. on and was amended under PCT Article 19 on (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified application, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

EARLIEST FOREIGN APPLICATION(S), IF ANY, FILED PRIOR TO THE FILING DATE OF THE APPLICATION			
APPLICATION NUMBER	COUNTRY	DATE OF FILING (day, month, year)	PRIORITY CLAIMED
			YES <input type="checkbox"/> NO <input type="checkbox"/>
			YES <input type="checkbox"/> NO <input type="checkbox"/>

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below.

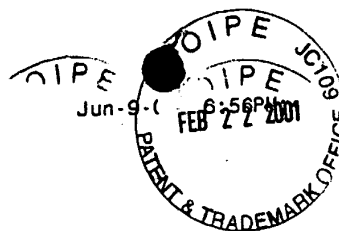
APPLICATION NUMBER	FILING DATE
60/118,030	April 13, 1999

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

APPLICATION SERIAL NO.	FILING DATE	STATUS		
		PATENTED	PENDING	ABANDONED

POWER OF ATTORNEY: As a named inventor, I hereby appoint S. Leslie Misrock (Reg. No. 18372), Harry C. Jones, III (Reg. No. 20280), Derj A. Terzian (Reg. No. 20060), David Wells, III (Reg. No. 21094), Jonathan A. Marshall (Reg. No. 24614), Barry D. Rein (Reg. No. 22411), Stanton T. Lawrence, III (Reg. No. 25736), Charles F. McKenney (Reg. No. 22795), Philip T. Shannon (Reg. No. 24278), Francis E. Morris (Reg. No. 24615), Charles E. Miller (Reg. No. 24576), Gidon D. Stern (Reg. No. 27469), John J. Lauter, Jr. (Reg. No. 27814), Brian M. Poissant (Reg. No. 28462), Brian D. Coggio (Reg. No. 27624), Rory J. Radding (Reg. No. 28749), Stephen J. Harbulak (Reg. No. 29166), Donald J. Goodell (Reg. No. 19766), James N. Palik (Reg. No. 25510), Thomas F. Fricbel (Reg. No. 29258), Laura A. Coruzzi (Reg. No. 30742), Jennifer Gordon (Reg. No. 30753), Allan A. Fanucci (Reg. No. 30256), Geraldine F. Haldwin (Reg. No. 31232), Victor N. Balancia (Reg. No. 31231), Samuel D. Abrams (Reg. No. 30605), Steven I. Wallach (Reg. No. 35402), Marcia H. Sundeen (Reg. No. 30893), Paul J. Zegger (Reg. No. 33821), Edmond R. Bannon (Reg. No. 32110), Bruce J. Barker (Reg. No. 33291), Adriane M. Antler (Reg. No. 32605), Thomas G. Rowan (Reg. No. 34419), James G. Murkey (Reg. No. 31636), Thomas D. Kohler (Reg. No. 32797), Scott D. Stimpson (Reg. No. 33607), Gary S. Williams (Reg. No. 31066), William S. Galliani (Reg. No. 33885), Ann L. Girolini (Reg. No. 31956), Todd A. Wagner (Reg. No. 35399), Scott B. Familant (Reg. No. 35514), Kelly D. Telcoul (Reg. No. 39582), Francis D. Cerreto (Reg. No. 38100), Anthony M. Insogna (Reg. No. 35203), Brian M. Rothery (Reg. No. 35340), Brian D. Siff (Reg. No. 35679), and Alan Tencabum (Reg. No. 34939), all of Pennie & Edmonds LLP, whose addresses are 1155 Avenue of the Americas, New York, New York 10036, 1667 K Street N.W., Washington, DC 20006 and 3300 Hillview Avenue, Palo Alto, CA 94304, and each of them, my attorneys, to prosecute this application, and to transact all business in the Patent and Trademark Office connected therewith.





#57  
RW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: ☒ Application of: Brines et al.

☒ Application No.: 09/547,220

Group Art Unit: To be assigned

☒ Filed: April 11, 2000

Examiner: To be assigned

For: MODULATION OF EXCITABLE TISSUE  
FUNCTION BY PERIPHERALLY  
ADMINISTERED ERYTHROPOIETIN

Attorney Docket No.: 10165-006-999

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
[37 CFR 1.9(f) and 1.27(d)] - Nonprofit Organization

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

I hereby declare that I am an official empowered to act on behalf of the nonprofit organization identified below:

Name of organization The Kenneth S. Warren Laboratories  
Address of organization 765 Old Saw Mill River Road  
Tarrytown, New York 10591

Type of organization

- ☐ University or other institution of higher education  
☒ Tax exempt under Internal Revenue Service Code (26 USC 501(a) and 501(c)(3))  
☐ Nonprofit scientific or educational under statute of state of the United States of America  
(Name of state \_\_\_\_\_)  
(Citation of statute \_\_\_\_\_)  
☐ Would qualify as tax exempt under Internal Revenue Service Code (26 USC 501(a) and 501(c)(3)) if located in the United States of America.  
☐ Would qualify as nonprofit scientific or educational under statute of state of the United States of America if located in the United States of America  
(Name of state \_\_\_\_\_)  
(Citation of statute \_\_\_\_\_)

I hereby declare that the nonprofit organization identified above qualifies as a nonprofit organization as defined in 37 CFR 1.9(e) for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code with regard to the invention entitled MODULATION OF EXCITABLE TISSUE FUNCTION BY PERIPHERALLY ADMINISTERED ERYTHROPOIETIN by inventors Michael Brines, Anthony Cerami, Carla Cerami described in

☒ Patent application no. 09/547,220 filed April 11, 2000

I hereby declare that rights under contract or law have been conveyed to and remain with the nonprofit organization identified above and/or there is an obligation under contract or law by the inventor(s) to convey rights to the nonprofit organization identified above with regard to the invention.

If the rights held by the nonprofit organization are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by

any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

FULL NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

FULL NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

FULL NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

FULL NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

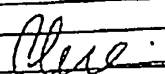
I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. [37 CFR 1.28 (b)]

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, and patent issuing thereon, or any patent to which this verified statement is directed.

Send correspondence to:

PENNIE & EDMONDS LLP  
1155 Avenue of the Americas  
New York, N.Y. 10036-2711

Direct Telephone calls to:  
PENNIE & EDMONDS LLP  
(212) 790-9090

Name of person signing Carla CetraniTitle of person other than owner TreasurerAddress of person signing The Kenneth S. Warren Laboratories765 Old Saw Mill River RoadTarrytown, New York 10591Signature Date 6/7/00

\*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities.  
(37 CFR 1.27)



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

AUGUST 23, 2000

PTAS

PENNIE & EDMONDS LLP  
LAURA A. CORUZZI  
1155 AVENUE OF THE AMERICAS  
NEW YORK, NY 10036



\*101396710A\*

10165-006

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 06/13/2000

REEL/FRAME: 010887/0963

NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

BRINES, MICHAEL

DOC DATE: 06/07/2000

ASSIGNOR:

CERAMI, ANTHONY

DOC DATE: 06/07/2000

ASSIGNOR:

CERAMI, CARLA

DOC DATE: 06/07/2000

ASSIGNEE:

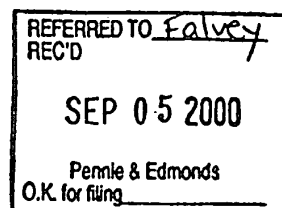
KENNETH S. WARREN LABORATORIES,  
THE  
765 OLD SAW MILL RIVER ROAD  
TARRYTOWN, NEW YORK 10591

SERIAL NUMBER: 09547220

FILING DATE: 04/11/2000

PATENT NUMBER:

ISSUE DATE:





UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

AUGUST 23, 2000

PTAS

PENNIE & EDMONDS LLP  
LAURA A. CORUZZI  
1155 AVENUE OF THE AMERICAS  
NEW YORK, NY 10036



\*101396710A\*

10165-006

UNITED STATES PATENT AND TRADEMARK OFFICE  
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ASSIGNOR:

BRINES, MICHAEL

DOC DATE: 06/07/2000

ASSIGNOR:

CERAMI, ANTHONY

DOC DATE: 06/07/2000

ASSIGNOR:

CERAMI, CARLA

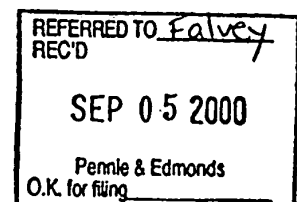
DOC DATE: 06/07/2000

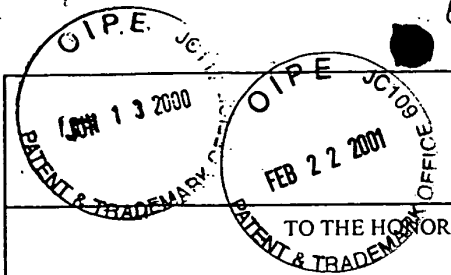
ASSIGNEE:

KENNETH S. WARREN LABORATORIES,  
THE  
765 OLD SAW MILL RIVER ROAD  
TARRYTOWN, NEW YORK 10591

SERIAL NUMBER: 09547220  
PATENT NUMBER:

FILING DATE: 04/11/2000  
ISSUE DATE:





06-14-00

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07-06-2000

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101396710

Attorney Docket Number  
10165-006-999TO THE HONORABLE COMMISSIONER OF PATENTS AND TRADEMARKS  
Box Assignment  
Washington, DC 20231

Please record the attached original documents or copy thereof.

<b>1. Name of conveying party(ies):</b>  Brines, Michael Cerami, Anthony Cerami, Carla  Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<b>2. Name and address of receiving party(ies):</b>  Name: <u>The Kenneth S. Warren Laboratories</u>  Address: <u>765 Old Saw Mill River Road</u> <u>Tarrytown, NY 10591</u>  Country (if other than USA): _____	
<b>3. Nature of conveyance:</b>  <input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other _____  Execution Date: <u>June 7, 2000</u>		<b>6. Number of applications and patents involved:</b> <u>1</u>  <b>7. Total fee (37 CFR 3.41):</b> .....\$ <u>40.00</u> Please charge to the deposit account listed in Section 8.  <b>8. Deposit account number:</b> <u>16-1150</u>	
<b>4. Application number(s) or patent number(s):</b> <u>09/547,220, filed April 11, 2000</u>  If this document is being filed together with a new application, the execution date of the application is: _____  A. Patent Application No.(s) <u>09/547,220</u>   B. Patent No.(s) _____  Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
<b>5. Name and address of party to whom correspondence concerning document should be mailed:</b>  PENNIE & EDMONDS LLP 1155 Avenue of the Americas New York, NY 10036			
<b>DO NOT USE THIS SPACE</b>			
<b>9. Statement and signature.</b>  <i>To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.</i>  Name of Person Signing: <u>Laura A. Coruzzi</u> Reg. No. <u>30,742</u> Signature: <u>Laura A. Coruzzi</u> Date: <u>June 13, 2000</u>  by <u>Gilean E. Falvey</u> Reg. No. <u>46,097</u> Total number of pages including cover sheet: <u>3</u>			

Mail documents to be recorded with required cover sheet information to:  
Commissioner of Patents & Trademarks, Box Assignment  
Washington, D.C. 20231

07/05/2000 DNGUYEN 00000223 161150 09547220

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## ASSIGNMENT

WHEREAS, WE, Michael Brines, Anthony Cerami, and Carla Cerami, ASSIGNORS, citizens of the United States, residing at 1 Wepawaug Road, Woodbridge, Connecticut 06525, 170 Mercer Street, New York City, New York 10012, and 121 Farrington Avenue, Sleepy Hollow, New York, 10591, respectively, are the inventors of the invention in MODULATION OF EXCITABLE TISSUE FUNCTION BY PERIPHERALLY ADMINISTERED ERYTHROPOIETIN for which we have executed an application for a Patent of the United States

☐ which is executed on ☐ even date herewith or ☐ \_\_\_\_\_

☐ which is identified by Pennie & Edmonds LLP docket no. 10165-006-999

☒ which was filed on April 11, 2000, Application No. 09/547,220

and WHEREAS, The Kenneth S. Warren Laboratories, a not-for-profit organization of the State of New York, having an address at 765 Old Saw Mill River Road, Tarrytown, New York 10591, ASSIGNEE, is desirous of obtaining our entire right, title and interest in, to and under the said invention and the said application:

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) to us in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, we, the said ASSIGNORS, have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said ASSIGNEE, its successors, legal representatives and assigns, our entire right, title and interest in, to and under the said invention, and the said United States application and all divisions, renewals and continuations thereof, and all Patents of the United States which may be granted thereon and all reissues and extensions thereof; and all applications for industrial property protection, including, without limitation, all applications for patents, utility models, and designs which may hereafter be filed for said invention in any country or countries foreign to the United States, together with the right to file such applications and the right to claim for the same the priority rights derived from said United States application under the Patent Laws of the United States, the International Convention for the Protection of Industrial Property, or any other international agreement or the domestic laws of the country in which any such application is filed, as may be applicable; and all forms of industrial property protection, including, without limitation, patents, utility models, inventors' certificates and designs which may be granted for said invention in any country or countries foreign to the United States and all extensions, renewals and reissues thereof;

AND WE HEREBY authorize and request the Commissioner of Patents and Trademarks of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents or other evidence or forms of industrial property protection on applications as aforesaid, to issue the same to the said ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND WE HEREBY covenant and agree that we have full right to convey the entire interest herein assigned, and that we have not executed, and will not execute, any agreement in conflict herewith.

AND WE HEREBY further covenant and agree that we will communicate to the said ASSIGNEE, its successors, legal representatives and assigns, any facts known to us respecting said invention, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing, reissue and foreign applications, make all rightful oaths, and generally do everything possible to aid the said ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper protection for said invention in all countries.

IN TESTIMONY WHEREOF, We hereunto set our hands and seals the day and year set opposite our respective signatures.

Date June 7, 2000

Michael Brines L.S.

State of NEW YORK }  
County of WESTCHESTER } SS.:

In the State of New York, county of Westchester, on June 7, 2000, before me, CHRISTINE GALIS, Notary Public, personally appeared Michael Brines, personally known to me on the basis of satisfactory evidence to be the person(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Christine Galis

Christine Galis  
Notary Public, State of New York  
No. 0165073633  
Qualified in Westchester County  
Commenced June 13, 1992



Date June 7, 2000

State of NEW YORK }  
County of WESTCHESTER } SS.:

Anthony Cerami L.S.  
Anthony Cerami

In the State of NEW YORK, county of WESTCHESTER, on JUNE 7, 2000, before me, CHRISTINE GALLIS, Notary Public, personally appeared Anthony Cerami, personally known to me on the basis of satisfactory evidence to be the person(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal  
Christine Gallis

Christine Gallis  
Notary Public, State of New York  
01GA5073633  
County of Westchester  
Commission Expires June 3, 2001

Date JUNE 7, 2000, 2000

State of NEW YORK }  
County of WESTCHESTER } SS.:

Carla Cerami L.S.  
Carla Cerami

In the State of NEW YORK, county of WESTCHESTER, on JUNE 7, 2000, before me, CHRISTINE GALLIS, Notary Public, personally appeared Carla Cerami, personally known to me on the basis of satisfactory evidence to be the person(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Christine Gallis

Christine Gallis  
Notary Public, State of New York  
01GA5073633  
County of Westchester  
Commission Expires June 3, 2001